IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2613 of 2007()

C.C.NO.1962/2007 OF J.F.C.M COURT (I), ERNAKULAM

PETITIONER: NAME AND ADDRESS OF THE PETITIONERS

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1. ZAFEER @ ZAFEER ABDUL MAJEED,
   AGED 36 YEARS, S/O.DR.ABDUL MAJEED
   CHIRAKKUZHY HOUSE, PANANGAD .P.O.,
   SREE NARAYANAPURAM VILLAGE,
   KODUNGALLUR TALUK,THRISSUR DISTRICT.

2. DR.ABDUL MAJEED, AGED 68 YEARS
   S/O. ALI,
   CHIRAKKUZHY HOUSE, PANANGAD .P.O.,
   SREE NARAYANAPURAM VILLAGE,
   KODUNGALLUR TALUK,THRISSUR DISTRICT.

3. YASMIN MAJEED,AGED 55 YEARS,
   W/O.DR.ABDUL MAJEED,
   CHIRAKKUZHY HOUSE, PANANGAD .P.O.,
   SREE NARAYANAPURAM VILLAGE,
   KODUNGALLUR TALUK,THRISSUR DISTRICT.

BY ADV. SRI.BABU KARUKAPADATH
SRI.K.A.NOUSHAD

RESPONDENTS: NAME AND ADDRESS OF THE RESPONDENTS

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1. STATE OF KERALA
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,ERNAKULAM.

2. BABITHA AGED 34 YEARS,D/O.AZAD
   VALIYAVEETTIL HOUSE,S.R.M.ROAD,
   ERNAKULAM VILLAGE, KANAYANNUR TALUK,
   THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007 ALONG WITH CRL.MC NO.2615/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.2613 & 2615 of 2007

Dated this the 16th day of August 2007

O R D E R

These petitions are filed by the petitioners who face allegations inter alia under Section 498A I.P.C. The first and the second petitioners in both cases are the husband and fathre-in-law of the de facto complainant. The third petitioner in Crl.M.C.No.2613/2007 is the mother-in-law of the de facto complainant. The de facto complainant has been arrayed as the second respondent in both petitions.

2. Against the petitioners, the de facto complainant had filed a complaint alleging commission of offences punishable under Section 498A I.P.C. The complaint was referred to the police. Investigation was conducted. Final report was filed only against petitioners 1 and 2. Aggrieved by the final report filed by the police after investigation, a private complaint was filed by the second respondent/wife making allegations against all the three respondents. Cognizance has been taken both on the final report and on the private complaint.

3. During the pendency of the proceedings, parties have settled their disputes. The second respondent has compounded the offence allegedly committed by the petitioners. In these circumstances, the parties have come before this court with the prayer that powers under Section 482 Cr.P.C may be invoked and both cases pending against the petitioners may now be quashed. They have produced before court the agreement of divorce as also compromise petition filed before the Family Court, Ernakulam. Averments in the petition show, the submissions made by the learned counsel at the Bar confirm and the documents produced as Annexures 3 and 4 settle the controversy beyond doubt that the parties have willingly and amicably settled the disputes between them. The learned Public Prosecutor also accepts the same and raises no objections against the prayer made. I am satisfied, in the facts and circumstances of this case that the parties have willingly and voluntarily settled their disputes and that if legally permissible, settlement and composition can be accepted and premature termination of the proceedings against the petitioners can be brought about. The second respondent is represented by his counsel Sri.K.A.Jaleel and the learned counsel has confirmed

that the second respondent has settled the disputes and there is no outstanding controversy with the petitioners.

4. The offence under Section 498A I.P.C is not legally compoundable as per the stipulations of Section 320 Cr.P.C. But the learned counsel for the petitioners, in these circumstances rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such circumstances the stipulation of Section 320 Cr.P.C cannot fetter the sweep and width of the power under Section 482 Cr.P.C. I am satisfied that powers under Section 482 Cr.P.C, as explained in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked to bring to premature termination the proceedings against the petitioners.

5. In the result, these Criminal Miscellaneous Cases are allowed. C.C.No.1052/2005 and C.C.No.1962/2007 both pending before the Judicial First Class Magistrate Court-I, Ernakulam against the petitioners are hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007